WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1960

ENROLLED

SENATE BILL NO. 15

(By Mr. )

PASSED Jan. 21, 1960

In Effect Passage

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of West Virginia JAN 27 1960
JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

Senate Bill No. 15

(BY MR. HEDRICK and MR. HOLDEN)

[Passed January 21, 1960; in effect from passage.]

AN ACT authorizing the county court of Harrison county and the county court of Marion county to create an airport authority, specifying the purposes of the authority and providing for membership in the authority; for the appointment and removal of members; for the acquisition by the authority of real estate and personal property; for the acquisition, construction, improvement, maintenance and operation by the authority of a public airport; for corporate existence of the authority; for the issuance by the authority of mortgage bonds, revenue bonds, other bonds, debentures, notes and securities, and giving security for the payment thereof; for the authority to exercise the power of eminent domain; for tax exemption for the property, funds and
obligations of the authority; for acquisition by the authority from the county court of Harrison county of the present county airport, known as the “Benedum Airport”, and the improvement and operation thereof; for the authority to lease the airport; for the county court of Harrison county and the county court of Marion county to become the lessees of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of Harrison county and the county court of Marion county and others; for keeping the funds and accounts of the authority; for the disposition of any surplus funds; for covering the employees of the authority by workmen’s compensation; and for dissolution of the authority.

Be it enacted by the Legislature of West Virginia:

Section 1. Benedum Airport Authority Authorized.—

The county court of Harrison county and the county court of Marion county are hereby authorized to create and establish a public agency to be known as the “Benedum Airport Authority” for the purposes and in the manner hereinafter set forth.
Sec. 2. Purposes.—The authority is hereby authorized and empowered to acquire, equip, construct, improve, maintain and operate a public airport with all usual and convenient appurtenances and facilities in Harrison county, West Virginia, to serve as a public airport for the convenience and accommodation of the inhabitants of Harrison county and Marion county and the public generally.

Sec. 3. Members of Authority.—The management and control of the “Benedum Airport Authority”, its property, operations, business and affairs, shall be lodged in a board of six persons who shall be known as the members of the authority and who shall be appointed for a term of three years each, three members by the county court of Harrison county, and three members by the county court of Marion county, except that, as to the first board appointed, the term of one member appointed by each county court shall expire on the first day of March next ensuing, the term of another member appointed by each county court shall expire on the first day of the following March, and the term of the third original member ap-
pointed by each county court shall expire on the first day of the next following March. All members of the board except the members of the first board shall be appointed for full three-year terms. As a member's term expires, the county court which appointed such member shall appoint a member for a full term of three years. A member may be reappointed for such additional term or terms as the county court appointing him may deem proper. If a member resigns, is removed or for any reason his membership terminates during his term of office, a successor member to fill out the remainder of his term shall be appointed by the county court which appointed him. Members in office at the expiration of their respective terms shall continue to serve until their successors have been appointed and have qualified. The county court of the county appointing a member may at any time for good cause, and upon at least five days' notice in writing to such member, remove such member of the board of the authority by an order duly entered of record in the record book of such court and may appoint a successor member for any member so removed. If any member
objects to being so removed, he may, in writing, demand
a hearing, and the county court proposing to remove
him shall promptly thereafter, in its own county, hold a
public hearing thereon. After such public hearing, the
county court holding the hearing shall determine whether
the member shall be removed or shall be permitted to
continue in office.

Sec. 4. Qualification of Members of the Authority.—
All members of the board of the authority shall be citizens
of West Virginia, over thirty years of age, and residents
of either Harrison county or Marion county. No member
of the board shall be engaged in the aviation business as
a major part of his activities. Not more than two mem-
ers of the authority from the same county shall belong to
the same political party. One member of the board of the
authority from each county may also be a member of the
county court of his county.

Sec. 5. Compensation of Members of the Authority.—
No member of the board of the authority shall receive
any compensation, whether in form of salary, per diem
allowances or otherwise, for or in connection with his
services as such member. Each member shall, however, be entitled to reimbursement by the authority for any necessary expenditures in connection with the performance of his general duties as such member.

Sec. 6. Authority to be a Public Corporation.—The authority when created, and the members thereof, shall constitute and be a public corporation under the name of “Benedum Airport Authority”, and as such shall have perpetual succession, may contract and be contracted with, sue and be sued, plead and be impleaded, and have and use a common seal.

Sec. 7. Powers.—The “Benedum Airport Authority” is hereby given power and authority as follows:

(1) To make and adopt all necessary by-laws, rules and regulations for its organization and operations not inconsistent with law;

(2) To elect its own officers, to appoint committees and to employ and fix the compensation for personnel necessary for its operation;

(3) To enter into contracts with any person, governmental department, firm or corporation, including both
public and private corporations, and generally to do any
and all things necessary or convenient for the purpose
of acquiring, equipping, constructing, maintaining, im-
proving, extending, financing and operating a public air-
port in Harrison county, West Virginia;
(4) To delegate any authority given to it by law to
any of its officers, committees, agents or employees;
(5) To apply for, receive and use grants in aid, dona-
tions and contributions from any source or sources, and
to accept and use bequests, devises, gifts and donations
from any person, firm or corporation;
(6) To acquire lands and hold title thereto in its own
name;
(7) To purchase, own, hold, sell and dispose of per-
sonal property and to sell, lease or otherwise dispose of
any real estate which it may own;
(8) To borrow money and execute and deliver nego-
tiable notes, mortgage bonds, other bonds, debentures,
and other evidences of indebtedness therefor, and give
such security therefor as shall be requisite, including
giving a mortgage or deed of trust on its airport properties
and facilities in connection with the issuance of mortgage
bonds.

(9) To raise funds by the issuance and sale of revenue
bonds in the manner provided by the applicable pro-
visions of article four-a, chapter eight of the code of West
Virginia, being chapter sixty-eight, acts of the Legisla-
ture, one thousand nine hundred thirty-five, as amended,
it being hereby expressly provided that the "Benedum
Airport Authority" is a "municipal authority" within the
definition of that term as used in said article four-a,
chapter eight of the code; and

(10) To expend its funds in the execution of the
powers and authority herein given.

Sec. 8. Indebtedness of the Authority.—The authority
may incur any proper indebtedness and issue any obliga-
tions and give any security therefor which it may deem
necessary or advisable in connection with carrying out
its purposes as hereinbefore mentioned. No statutory
limitation with respect to the nature or amount of
indebtedness which may be incurred by municipalities
or other public bodies shall apply to indebtedness of the
authority. No indebtedness of any nature of the authority shall constitute an indebtedness of the county court of Harrison county or the county court of Marion county or a charge against any property of said county courts, or either of them. No obligation incurred by the authority shall give any right against any member of the county court of Harrison county or the county court of Marion county or any member of the board of the authority. The rights of creditors of the authority shall be solely against the authority as a corporate body and shall be satisfied only out of property held by it in its corporate capacity.

Sec. 9. Agreements in Connection with Obtaining Funds.—The authority may, in connection with obtaining funds for its purposes, enter into any agreement with any person, firm or corporation, including the federal government, or any agency or subdivision thereof, containing such provisions, covenants, terms and conditions as the authority may deem advisable.

Sec. 10. Authority to Have Right of Eminent Domain.—Whenever it shall be deemed necessary by the authority in connection with the exercise of its powers herein con-
ferred to take or acquire any lands, structures or build-
ings or other rights, either in fee or as easements for the
purposes herein set forth, the authority may purchase
the same directly or through its agents from the owner
or owners thereof, or failing to agree with the owner or
owners thereof, the authority may exercise the power of
eminent domain in the manner provided for condemna-
tion proceedings in chapter fifty-four of the code of West
Virginia, as heretofore and hereafter amended.

Sec. 11. Property, Bonds and Obligations of Authority

Exempt from Taxation.—The authority shall be exempt
from the payment of any taxes or fees to the state or any
subdivisions thereof or to any officer or employee of
the state or other subdivision thereof. The property of
the authority shall be exempt from all local and munici-
pal taxes. Bonds, notes, debentures and other evidence
of indebtedness of the authority are declared to be issued
for a public purpose and to be public instrumentalities,
and, together with interest thereon, shall be exempt from
taxes.

Sec. 12. County Court Authorized to Convey Present
Airport Properties and Facilities to the Authority.—The county court of Harrison county is hereby authorized to convey to the authority the present airport property owned by the county court, known as the “Benedum Airport”, together with all the appurtenances and facilities therewith, such conveyance to be without consideration or for such price and upon such terms and conditions as the county court and the authority shall deem proper.

Sec. 13. Authority May Lease Airport and Facilities to County Courts of Harrison and Marion Counties or Other Lessee or Lessees.—The authority may lease its airport and all the appurtenances and facilities therewith to the county court of Harrison county and the county court of Marion county as joint lessees, or to any other available lessee, or joint lessees, at such rental and upon such terms and conditions as the authority shall deem proper. If the authority determines to lease the airport and its appurtenances and facilities, it shall first offer the same to the county court of Harrison county and the county court of Marion county upon an annual lease, and it shall not lease the airport and its appurten-
14 ances and facilities to any other lessee until the county
15 court of Harrison county and the county court of Marion
16 county have indicated that they do not desire to lease said
17 properties. The county court of Harrison county and the
18 county court of Marion county are hereby authorized to
19 enter into a lease with the authority for said airport and
20 appurtenances and facilities at such rental and upon such
21 terms and conditions as they shall deem proper, and the
22 county court of Harrison county and the county court of
23 Marion county are each hereby authorized to levy taxes
24 as provided by law for the purpose of paying their re-
25 spective portions of the rent for said airport, appurten-
26 ances and facilities, said county courts to be equal lessees
27 thereof.

Sec. 14. Disposition of Surplus of Authority.—If the
2 authority should realize a surplus, whether from operat-
3 ing the airport or leasing it for operation, over and above
4 the amount required for the maintenance, improvement
5 and operation of the airport and for meeting all required
6 payments on its obligations, it shall set aside such reserve
7 for future operations, maintenance, improvements and
contingencies as it shall deem proper and shall then apply the residue of such surplus, if any, to the payment of any recognized and established obligations not then due; and after all such recognized and established obligations have been paid off and discharged in full, the authority shall, at the end of each fiscal year, set aside the reserve for future operations, maintenance, improvements and contingencies, as aforesaid, and then pay the residue of such surplus, if any, to the county court of Harrison county and the county court of Marion county in the proportions in which they respectively made contributions to the authority for the airport during the year just ended, until their respective contributions for such year have been repaid in full, and the residue, if any, of such surplus shall be paid over to said two county courts in the proportions in which they have respectively made capital contributions for constructing, altering, extending and improving the airport from the time of the inception of the airport, about the year one thousand nine hundred thirty-five, until the date of such distribution, which distributions, if any, shall be used by said county courts for
Sec. 15. Contributions to Authority by County Courts and Others; Funds and Accounts of the Authority.—

Contributions may be made to the authority from time to time by the county court of Harrison county and the county court of Marion county and by any persons, firms or corporations that shall desire so to do. All such funds and all other funds received by the authority shall be deposited in such bank or banks as the authority may direct and shall be withdrawn therefrom in such manner as the authority may direct. The authority shall keep strict account of all its receipts and expenditures and shall each quarter make a quarterly report to the county court of Harrison county and the county court of Marion county containing an itemized account of its receipts and disbursements during the preceding quarter. Such report shall be made within sixty days after the termination of the quarter. Within sixty days after the end of each fiscal year, the authority shall make an annual report to each of said county courts containing an itemized statement of its receipts and disbursements for the pre-
ceding year, and such annual report shall be published once a week for two successive weeks in two newspapers of opposite politics of general circulation in, and published in, Harrison county, West Virginia, and for a like period in two newspapers of opposite politics of general circulation in, and published in Marion county, West Virginia. The books, records and accounts of the authority shall be subject to audit and examination by the office of the state tax commissioner of West Virginia and by any other proper public official or body in the manner provided by law.

Sec. 16. Employees to be Covered by Workmen's Compensation.—All employees of the authority eligible thereunto shall be deemed to be within the workmen's compensation act of West Virginia, and premiums on their compensation shall be paid by the authority as required by law.

Sec. 17. Dissolution of Authority.—The authority may at any time pay off and discharge in full all of its indebtedness, obligations, and liabilities, convey the airport properties, appurtenances and facilities to the county
court of Harrison county and the county court of Marion county and be dissolved. If said airport properties, appurtenances and facilities are conveyed to the county court of Harrison county and the county court of Marion county, they shall be conveyed in the proportions in which each county court has made capital contributions for constructing, altering, extending and improving the airport and its appurtenances and facilities from the time of the inception of the airport, about the year one thousand nine hundred thirty-five, until the date of such conveyance. Before making such conveyance of its properties to said county courts, the authority shall first publish notice of its intentions so to do and of its intention to be dissolved once a week for four successive weeks in two newspapers of opposite politics published in, and of general circulation in, Harrison county, West Virginia, and for a like period in two newspapers of opposite politics published in, and of general circulation in, Marion county, West Virginia. Certificates from the publishers of the papers of such publications shall be filed with the county court of Harrison county and the county court of Marion county
on or before the day on which the deed conveying said properties is delivered. Any funds remaining in the hands of the authority at the time of the conveyance of said properties shall be by the authority paid over to the county court of Harrison county and the county court of Marion county in the respective proportions in which the airport properties, appurtenances and facilities were conveyed to them, which funds shall be used by said county courts for purposes in connection with said airport.

Upon the payment of its indebtedness, obligations and liabilities, the publishing of the notices aforesaid, the conveyance of its properties, and the paying over to said county courts of any funds remaining in its hands, the authority shall cause a certificate showing its dissolution to be executed under its name and seal and to be recorded in the office of the clerk of the county court of Harrison county and in the office of the clerk of the county court of Marion county, and thereupon its dissolution shall be complete.

Sec. 18. What Shall Constitute Capital Contributions to the Airport.—At the time of establishing the authority
the county court of Harrison county and the county court of Marion county may by agreement stipulate the amount that each has contributed by way of capital contributions for constructing, altering, extending and improving the airport and its appurtenances and facilities from the time of the inception of the airport, about the year one thousand nine hundred thirty-five, until the establishment of the authority. If the amounts cannot be agreed upon, they shall be determined by a certified public accountant to be selected by said county courts. After the authority is established, it shall keep a careful record of all capital contributions to it by each county court. If the two county courts should become lessees and operate the airport under a lease from the authority, all sums paid by them to the authority as rent shall be treated and considered as capital contributions, unless both county courts agree otherwise in writing.

Sec. 19. Automatic Termination of the Right to Establish the Authority.—If on or before the first day of March, one thousand nine hundred seventy, the county court of Harrison county and the county court of Marion county
have not appointed the members of the authority who are
to constitute the board for management of its business and
affairs, as provided in section three hereof, all right to
create and establish "Benedum Airport Authority" under
this act shall automatically terminate.

Sec. 20. Liberal Construction of Act.—It is the purpose
of this act to provide for the acquisition, construction,
 improvement, extending, maintenance and operation of
a public airport in a prudent and economical manner,
and this act shall be liberally construed as giving to the
authority full and complete power reasonably required
to give effect to the purposes hereof. The provisions of
this act are in addition to and not in derogation of any
power existing in the county court of Harrison county
and the county court of Marion county under any con-
stitutional or statutory provisions which they, or either
of them, may now have, or may hereafter acquire.

Sec. 21. Provisions Severable.—The several sections
and provisions of this act are severable, and if any sec-
tion or provision hereof shall be held unconstitutional,
all the remaining sections and provisions of this act shall
nevertheless remain valid.
Sec. 22. This Act and Chapter 183 Acts of the Legislature, 1959, Both to Remain in Effect Until an Airport Authority is Established.—The county court of Harrison county was authorized to create an airport authority to be known as the "Benedum Airport Authority" by chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine. This act does not repeal chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine, except that if an airport authority is created and established by the county court of Harrison county and the county court of Marion county under this act, then chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine, shall no longer be in effect; but if the county court of Harrison county should create and establish an airport authority under chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine, then this act shall thereupon no longer be in effect.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the Senate.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

Ralph C. Doan
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 26th day of January, 1960.

[Signature]
Governor